



TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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Part II—Section 2

**Notifications or Orders of interest to a Section of the public
issued by Secretariat Departments.**

NOTIFICATIONS BY GOVERNMENT

HOME, PROHIBITION AND EXCISE DEPARTMENT

Secretariat, October 1, 2018

No. II(2)/HOPE/855(f)/2018.

SAND OFFENCES - ILLEGAL QUARRYING, SMUGGLING AND SELLING OF SAND – INVOKING OF ACT 14 OF 1982 AGAINST THE GOVERNMENT SERVANTS WHO ARE ABETTING THE COMMISSION OF CRIME OF SAND SMUGGLING – INSTRUCTION TO LAW ENFORCING AUTHORITIES AND GOVERNMENT SERVANTS – INSTRUCTION - ISSUED.

The following Government Order is Published:-

[G.O. Ms. No.62, Home, Prohibition and Excise (XVI), 1st October 2018, புரட்டாசி 15, விளம்பி, திருவள்ளுவர் ஆண்டு-2049.]

READ :

Order passed by the Division Bench of the Hon'ble High Court of Madras in Habeas Corpus Petition No.188/2018, dated 08-05-2018.

ORDER: No. 62, Home, Prohibition and Excise (XVI), 1st October 2018.

The Division Bench of the Hon'ble High Court of Madras has passed order in Habeas Corpus Petition No.188 of 2018, dated 08-05-2018, filed by one Tmt. VEDIYAMMAL, among others, as follows:-

.....“15. In conclusion, we direct the Principal Secretary to Government, Home (Police) Department, Fort St. George, Chennai – 9, the Director General of Police, Mylapore, Chennai – 4 and the Director, Vigilance and Anti-Corruption Department, Greenways Road, Chennai-28, to issue consolidated circulars/ instructions to all the law enforcing authorities, including the Police Stations and other revenue officials across the State, clearly stating that the public servants, who all are abetting the commission of the offence of “Sand Smugglings” will be punished under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-Grabbers and Video Pirates Act, 1982. Such consolidated instructions/circulars should contain that the public officials are liable to face both the departmental disciplinary proceedings as well as the penal provisions under the provisions of Tamil Nadu Act 14 of 1982. Such instructions/circulars are directed to be issued within a period of twelve weeks from the date of receipt of a copy of this order.

2. The Hon'ble Division Bench has made the following observation while passing the above order:-

"10. On a perusal of the entire provisions of the Act, we are of the considered opinion that the term "Goondas" and "Sand Offender" are defined as stated supra. The word "Goonda" has been defined so as to include the person, who "abets the commission of offence. The word "Sand Offender" also provides meaning so as to include the person, who "abets the commission of offence" in respect of ordinary sand punishable under the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957) or under the Tamil Nadu Minor Mineral Concession Rules, 1959.

11. Considering the very purpose and the object of the Act and also the provisions enumerated, this Court is of an opinion that it is not only the persons, who are committing the offence of "sand smugglings" alone to be booked and the persons, who are abetting commission of offences are also to be punished under the Act.

12. implementation of the Act, will not only encourage the habitual offenders but also provide scope for corrupt activities by the Executives/Police Officials. Thus, all the persons involved, both the persons involved in the commission of offence as well as the persons who abets the commission of offence, are booked equally under the Act. In this regard, there should not be any leniency or misplaced sympathy by the State or by the competent authorities. The Executives/Police Officials abetting such commission of offence by receiving "mamools" (bribes) or indulging in corrupt activities are also certainly be punished under the Act and that is the very spirit of the Act. Those officials, who have involved in abetting the commission of offence are to be brought under the definition of "Goondas" or as "Sand Offenders". However, we are painful to note that the law implementing authorities have so far not booked even a single case against such corrupt public officials under the Act. We are informed that these sand smugglings are frequently happening mostly with the knowledge of the jurisdictional police officials and the revenue officials concerned. The public authorities, who are bound to prevent such illegal activities are either adopting a compromising attitude or receiving "mamools" (bribes) from such offenders, and closing their eyes and keeping silence. All these offences are to be carefully taken note of and suitable actions under the Act and the Rules are to be initiated without any delay.

13. In view of the discussions, we are of the considered opinion that the public officials, including the police officials and the revenue officials and other concerned officials, the State and the authorities competent/concerned should issue appropriate circulars/instructions in order to ensure effective implementation of the Act and the Rules".

3. The Government have carefully examined the above direction of the Hon'ble Division Bench of the Madras High Court. The Government have been keen to prevent "sand theft" and "sand smuggling" with the effective and prompt action by the Government Officials and many instructions have been issued to the concerned by the Government in this regard from time to time. The need of the hour is to maintain the vast fertile eco system of this State in the stable form by curtailing all types of sand smuggling with the services of the Government Officials. In view of the position set out above the Government officials and police officials concerned are bound to prevent such offences.

4. A copy of the judgment as well as copies of the instructions issued by the Government towards curbing the act of sand smuggling from time to time are appended to this order. Accordingly, the Government officials including police officials concerned are instructed to follow the instructions already issued in this regard without any deviation. The Government also instructs that the Government officials including police officials concerned if found violating the above instructions already issued or involved in illegal sand removal or abetting the commission of the offence of "sand smuggling" as defined under the Tamil Nadu Act 14 of 1982 will be dealt with by invoking the Tamil Nadu Act 14 of 1982. They are also liable to face both the departmental disciplinary proceedings as well as the penal provisions under the existing criminal laws.

(By order of the Governor)

NIRANJAN MARDI,
Additional Chief Secretary to Government.